

DOCUMENT RESUME

02136 - [A1572543]

[Information Gathering Practices of the Commodity Futures Trading Commission]. GGD-77-52; B-184575. May 26, 1977. 6 pp. + enclosure (2 pp.).

Report to William T. Bagley, Chairman, Commodity Futures Trading Commission; by Henry Eschwege, Director, Community and Economic Development Div.

Issue Area: Statistical and Paperwork Implications of Non-Federal Data (3100).

Contact: Community and Economic Development Div.

Budget Function: Commerce and Transportation: Other Advancement and Regulation of Commerce (403).

Congressional Relevance: House Committee on Agriculture; Senate Committee on Agriculture, Nutrition, and Forestry.

Authority: Trans-Alaska Pipeline Authorization Act of November 1973. Commodity Futures Trading Commission Act of 1974.

The Commodity Futures Trading Commission (CFTC) does not have a formal program prescribing the procedures and critical management controls necessary for initiating, developing, and reassessing the reporting and recordkeeping requirements of an effective information-gathering program. Findings/Conclusions: CFTC's regulatory role requires an effective information-gathering process to prevent respondents from compiling and submitting data that do not achieve the desired objectives. CFTC does not have a formal information-gathering program, but it has begun to design an integrated system for collecting, processing, and disseminating information. CFTC is also presently reassessing some of its 14 forms, which require information from participants in the commodity futures trading industry on an ad hoc basis. CFTC needs a formal information-gathering program, incorporating the management controls needed for developing reasonable reporting and recordkeeping requirements and for periodically reassessing their usefulness. A formal program clearly defining organizational duties and responsibilities would make certain that the management controls are applied on a uniform basis. Recommendations: The CFTC should develop a formal information-gathering program that incorporates essential management controls and that clearly defines duties and responsibilities of CFTC organizations involved in the management of information collection. CFTC should also reconsider its position that reporting requirements adopted to implement its regulatory judgments are not subject to GAO clearance. (SC)



UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

MAY 26 1977

COMMUNITY AND ECONOMIC  
DEVELOPMENT DIVISION

B-184575

The Honorable William T. Bagley  
Chairman, Commodity Futures  
Trading Commission

Dear Mr. Bagley:

The Trans-Alaska Pipeline Authorization Act of November 1973 requires us to (1) conduct clearance reviews of the information-collection plans and forms proposed by independent Federal regulatory agencies and (2) study the information-gathering practices of these regulatory agencies. We evaluated the effectiveness of the Commodity Futures Trading Commission's (CFTC's) information-gathering program.

An effective information-gathering program must include reviews of reporting and recordkeeping requirements at key intervals during development and following implementation. This provides the basis for continuing, changing, or stopping such activities. If a management system does not exist or is not functioning properly, unplanned and undesirable results may occur.

CFTC does not have a formal program prescribing the procedures and critical management controls necessary for initiating, developing, and reassessing the reporting and recordkeeping requirements.

MANAGEMENT ACTIONS AND CONTROLS  
NEEDED FOR AN EFFECTIVE PROGRAM

The following four management actions and controls needed for an effective information-gathering program provide for developing reasonable requirements and periodically reassessing their usefulness:

GGD-77-52

02136

2543

- The information requested should be needed to accomplish an assigned agency function and should actually meet that need.
- Alternative sources of data should be considered.
- Data collection (and alternatives) should be evaluated by comparing the need for the data with the burden imposed on the Government and respondents.
- The information-gathering process should be periodically examined to reassess its effectiveness.  
(See enc. I.)

According to the National Archives and Records Service, an information management authority, information-gathering programs should be clearly stated in writing and distributed to all personnel concerned.

#### CFTC'S INFORMATION GATHERING PROGRAM

Fourteen CFTC forms require information from participants in the commodity futures trading industry. CFTC also requires commodity traders to maintain various financial and operating records. Its regulatory role requires an effective information-gathering process to prevent respondents from compiling and submitting data which does not achieve the desired objectives.

CFTC does not have a formal information-gathering program. It has, however, begun to design an integrated system for collecting, processing, and disseminating information. In addition, CFTC is presently reassessing some of its forms on an ad hoc basis.

We believe that a formal program is needed for CFTC's information-gathering process to be fully effective. A formal program would help insure the uniform and consistent application of essential management controls in developing and reassessing each data requirement. Also, a proper delegation of responsibility would make certain that necessary and timely management actions are taken.

CFTC's forms were developed before the formal transfer in April 1975 of regulatory responsibility from the Department of Agriculture to CFTC under the Commodity Futures Trading Commission Act of 1974.

We were unable to trace the development of reporting requirements within CFTC. However, our review of six forms developed before the formal transfer in April 1975 provides several examples of the importance of applying management controls during development and reassessment of each data requirement.

### Series 03 reports

CFTC requires all traders who hold a reportable position 1/ in a commodity to file series 03 reports, showing transactions and positions and deliveries and exchanges of futures for cash on each day that they trade the particular commodity. A June 1976 CFTC market information study recommended (1) discontinuing the series 03 reports and (2) replacing the essential information it now collects with information from other sources providing useful and timely data. The CFTC study found that series 03 reports

- lacked timeliness for some surveillance purposes,
- duplicated some information collected by other reports, and
- were not essential for the surveillance effort or useful for other purposes because they were incomplete.

This study illustrates the desirability of a formal program which includes management controls. During development and following implementation of a reporting requirement, an agency should, as standard practice (as opposed to selective special study), assess the need for the information, determine if the information collected satisfies that need, and determine if the requirement duplicates information already available.

---

1/ A reportable position means any position in any one future on any contract market which equals or exceeds the reporting level. The reporting levels are currently fixed at 200,000 bushels for grain and soybeans, 5,000 bales for cotton, 50 contracts for silver, and 25 contracts for all other commodities.

Forms 2-R and 94

CFTC requires floor brokers to submit both form 2-R (application for registration as floor broker) and form 94 (biographical information) at initial registration. These forms have seven data elements in common, and combining the forms would eliminate the collection of duplicate information and the administrative burden of handling two forms. CFTC, after recognizing the duplication, proposed combining the forms. By reviewing alternative sources that may provide the needed information, duplication can be detected during development or reassessment of a reporting requirement.

Series 01 reports

CFTC requires traders to submit daily the series 01 reports, which list all accounts above the minimum reportable level. CFTC's staff reassessment efforts recommended the following alternative means of submitting and collecting the data.

- Submit data in its original machine readable form, thereby increasing efficiency and decreasing the possibility of error in transcribing data. This recommendation was approved by the Commission.
- Submit data only for accounts whose positions have changed because of the day's transactions. In addition, these submissions would be made as daily updates to a CFTC computerized printout of the previous day's positions, rather than to an existing series 01 report. A sample of traders reacted favorably to this recommendation because of the increased efficiency and reduced burden.

Although these alternative data collection procedures may not have been available or practical when the series was developed, we believe that the positive results of the recommended revisions demonstrate the importance of periodic reassessment.

CLEARANCE REVIEWS

The Trans-Alaska Pipeline Authorization Act requires us to conduct clearance reviews of the information plans and forms proposed by the independent Federal regulatory agencies before their use. CFTC believes that forms adopted in the performance of its regulatory duties are not subject to GAO's

clearance, and it does not submit these forms for clearance. As stated in our May 28, 1976, report to the Congress, "Status of GAO's Responsibilities Under the Federal Reports Act," we disagree with CFTC's position.

### CONCLUSIONS

We believe that CFTC needs a formal information-gathering program, incorporating the management controls needed for developing reasonable reporting and recordkeeping requirements and for periodically reassessing their usefulness. A formal program clearly defining organizational duties and responsibilities would make certain that the management controls are applied on a uniform basis. Furthermore, a program that includes advance clearance reviews by GAO would help insure that CFTC is minimizing the compliance burden on respondents and would assist in identifying and eliminating unnecessary duplication.

### AGENCY COMMENTS

CFTC officials provided no specific comments on our conclusions and recommendations although they indicated our suggestions would assist in improving their information-gathering efforts.

CFTC's Acting General Counsel reiterated the Commission's position that reporting requirements adopted to implement its regulatory judgments are not subject to GAO clearance. GAO does not view its responsibility for conducting advance clearance reviews as an intrusion on the authority of the regulatory agencies. Further, we believe our reviews provide a useful control over unnecessary duplication and excessive burden consistent with congressional intent.

### RECOMMENDATIONS

We recommend that CFTC develop a formal information-gathering program that (1) incorporates essential management controls discussed in enclosure I and (2) clearly defines duties and responsibilities of CFTC organizations involved in the management of information collection. We also recommend that CFTC reconsider its position regarding GAO's clearance reviews of information-collection plans and forms.

- - - -

Section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written

statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this report to the Director of the Office of Management and Budget and the Chairmen of the House Committee on Government Operations, the Senate Committee on Governmental Affairs, and the House and Senate Committees on Appropriations.

Sincerely yours,

A handwritten signature in cursive script that reads "Henry Eschwege". The signature is written in black ink and is positioned above the typed name and title.

Henry Eschwege  
Director

Enclosure

CRITICAL MANAGEMENT CONTROLSASSESSMENT OF NEED AND DEFINITION  
OF DATA REQUIREMENTS

A clear statement of information needed is fundamental and necessary to the development of data collection. Without first determining and validating the need, much money and effort could be unnecessarily expended by the agency and the respondents. Unless an agency has taken adequate steps to determine exactly what it wants, a requirement that produces less than optimum results may be developed.

A reporting requirement should be implemented only under the conditions that (1) information is needed, (2) the information to be collected will help satisfy that need, and (3) the agency can determine whether the need is being satisfied.

AVOIDING AND ELIMINATING  
UNNECESSARY DUPLICATION

Determining whether the information to be collected is already available can most effectively be accomplished by (1) reviewing existing reporting requirements for similar data and (2) contacting other agencies and/or those respondents who will be required to provide the information. This process can identify information which can fulfill the stated need either in its present form or with certain changes. Such an effort should avoid collection of duplicative information, which ultimately results in unnecessary costs to the Government and undue burden on respondents.

OBTAINING ASSURANCE THAT THE  
DATA REQUIREMENT IS REASONABLE  
AND FEASIBLE

Determining whether the data requirement being developed is reasonable and feasible is an involved process. It begins with preliminary contact with potential respondents, intra-agency offices, and other interested organizations and proceeds through such steps as soliciting comments and field testing the proposal before implementation. This should insure that the proposal does not duplicate other requirements and is acceptable in terms of costs and anticipated benefits.

Good management practices dictate that, as an agency develops proposed information-gathering requirements, it be in contact with potential respondents and consider alternate methods of data collection, such as selective sampling. This

should insure that the final product is reasonable, easily complied with, and ultimately results in a minimal burden on the respondents.

Field testing is one technique which can be used to insure that the development process has produced a reasonable and feasible proposal. Potential respondents voluntarily participate in field testing. This can provide invaluable information on:

- Data availability, as a result of the respondents completing the form rather than a superficial analysis based on mere inspection of the form.
- Problems associated with ambiguous terms and complex instructions.

#### REASSESSMENT OF DATA COLLECTION AND USAGE

For an agency to insure that the reported data is being used fully and effectively, it must continually evaluate and reassess its data collection. This would show whether the development process is functioning properly and is resulting in the development and implementation of the best possible product. Based on the results of such an evaluation, decisions could be made to:

- Continue collecting the information.
- Modify the requirements to meet the stated need.
- Consolidate requirements that obtain essentially the same information.
- Eliminate the requirement.